IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.275 OF 2006.

Ajinkyatara Sahakari Sakhar Karkhana Limited. ... Appellant.

Versus.

Hindustan Coco Cola Beverages Pvt. Ltd. and others. ... Respondents.

Shri A.Y.Sakhare, Senior Counsel along with Shri A.B.Vyagyani for the Appellant.

Shri Virag Tulzapurkar, Senior Counsel with Shri Amit Jamsandekar and Srivastava i/by M/s.D.H.Law and Associates for Respondent No.1.

Shri Birendra Saraf with Shri Sachin Chandarana i/by M/s.Manilal Kher Ambalal & Co.for the Respondent No.2.

Ms.Arathy Thampy i/by M/s.Viraj Maniar and Associates for Respondent No.3.

CORAM : ABHAY S.OKA, J.

DATED : 4th June, 2007.

P.C.:

1. Heard the learned Senior Counsel appearing for the Appellant. The Appellant is the original Plaintiff. The challenge is to the order dated 14th February 2006 passed by the trial Court by which the application for temporary injunction filed by the Appellant/Plaintiff has been rejected. The prayer in the application for temporary injunction was for restraining the 1st Respondent from encashing the bank guarantee. The said prayer has been rejected by the impugned order.

2. The learned Senior Counsel appearing for the Appellant has taken me through the relevant averments

made in the plaint. He has invited my attention to the averments made in paragraphs 13 and 14. He has submitted that a clear case was made out for grant of injunction.

3. I have considered the submissions. Taking the averments made in the plaint as it is, it is very difficult to come to the conclusion that any fraud is pleaded with all material particulars and existence of fraud is prima-facie established. There is no averment in the plaint to show that irretrievable injustice will be caused to the Appellant/Plaintiff if the temporary injunction is not granted.

4. In view of this position, I find no error in the discretionary order passed by the trial Court by which application for temporary injunction made by the Applicant has been rejected. No interference is called for with the impugned order. Appeal from Order is dismissed.

Judge.